

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

C.M.D., et al.,

No. C 12-1216 RS

Plaintiffs,

v.

**ORDER LIFTING STAY AND  
DENYING MOTION TO DISMISS  
WITHOUT PREJUDICE AS MOOT**

FACEBOOK, INC.,

Defendant.

As requested, the parties have submitted their positions as to how this action should proceed in light of the judgment entered in *Fraley v. Facebook*, C 11-01726 RS. Facebook contends that the stay in this matter remain in place while appeals in *Fraley* are pending. Plaintiffs oppose any continued stay, and propose filing an amended complaint. While a stay was appropriate during the pendency of settlement approval proceedings in *Fraley* given the overlapping issues in that matter and the existing complaint herein, an extended stay of uncertain duration during appeal is not warranted. Moreover, plaintiffs are proposing to amend their complaint, presumably to state only those claims they believe remain viable after the *Fraley* judgment. Accordingly, it would be in any event premature to conclude that there will still be material overlap between the two actions.

The stay of this action is therefore lifted. Plaintiff shall file an amended complaint within two weeks of the date of this order. A Case Management Conference will be held on December 12, 2013, at 10:00 a.m., subject to continuance in the event the pleadings have not been settled. The

1 pending motion to dismiss is denied as moot, without prejudice to Facebook's right to reassert any  
2 arguments therein that it believes remain applicable after amendment of the complaint.

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4 IT IS SO ORDERED.

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7 Dated: 9/30/13

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9 RICHARD SEEBORG  
10 UNITED STATES DISTRICT JUDGE  
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